

## CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Robert Mohr	Team: Team # 8	CCRB Case #: 200815707	<input checked="" type="checkbox"/> Force	<input type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input type="checkbox"/> Injury
Incident Date(s) Thursday, 10/16/2008 2:00 AM	Location of Incident: Central Park (Rambles Section)	Precinct: 483	18 Mo. SOL 4/16/2010	EO SOL 4/16/2010	
Date/Time CV Reported Thu, 10/30/2008 11:51 AM	CV Reported At: CCRB	How CV Reported: Mail	Date/Time Received at CCRB Thu, 10/30/2008 11:51 AM		

Complainant/Victim	Type	Home Address

Subject Officer(s)	Shield	TaxID	Command
1. LT Thomas Milano	00000	918001	CPK PCT
2. Officers			CPK PCT

Witness Officer(s)	Shield No	Tax No	Cmd Name
1. POM Sanghoon Chung	02565	943086	CPK PCT
2. POM Andrew Tuccio	25846	893732	CPK PCT
3. LT Joseph Maher	00000	904424	CPK PCT
4. POM Anthony Woo	27326	916932	CPK PCT

Officer(s)	Allegation	Investigator Recommendation
A.LT Thomas Milano	Abuse: Lt. Thomas Milano refused to provide his name and shield number to § 87(2)(b)	
B. Officers	Force: Officers used physical force against § 87(2)(b)	

## Synopsis

On October 16, 2008, at approximately 2:00 AM, in the vicinity of the Central Park “Rambles” section, Lt. Thomas Milano entered the gazebo and asked § 87(2)(b) and another man whether or not they were homeless, and indicated that he was going to remove them from the park. § 87(2)(b) asked Lt. Milano for his name and shield number and Lt. Milano refused to provide it to him (**Allegation A**). Officers from the Central Park Precinct used physical force against § 87(2)(b) (**Allegation B**).

§ 87(2)(g)

## Summary of Complaint

On October 30, 2008, § 87(2)(b) filed an on-line complaint with the CCRB. The CCRB received this complaint on October 30, 2008, at 11:51 AM (encl. 5a-g). § 87(2)(b) was interviewed at the CCRB on December 3, 2008 (encl. 6a-d).

§ 87(2)(b) is a § 87(2)(b)-old black male. § 87(2)(b)

On October 16, 2008, at approximately 2:00 AM, in the vicinity of the Central Park ‘Rambles’ section in Manhattan, § 87(2)(b) was sitting in the Rustic Shelter and preparing to go to sleep. § 87(2)(b) was sitting and talking to another homeless man he knows only as § 87(2)(b) when two or three plainclothes officers approached them. One of the officers, PO1 approached § 87(2)(b) and § 87(2)(b) and asked, “Are you homeless?” § 87(2)(b) described PO1 as a white male in plainclothes, 5’8” tall, slightly heavy set, and carrying a gold badge. § 87(2)(b) saw that PO1 had a gold badge after he asked PO1 to identify himself as a police officer. This investigation later identified PO1 as Lt. Thomas Milano from the Central Park Precinct.

§ 87(2)(b) told Lt. Milano that yes, they were homeless. Lt. Milano told § 87(2)(b) and § 87(2)(b) that he would get them a bed for the night. When § 87(2)(b) responded that he did not want to go to a shelter, Lt. Milano told § 87(2)(b) that he would be spending the night in the precinct. § 87(2)(b) asked what law he was being arrested under. § 87(2)(b) says that he did not recall exactly what he said, but did remember saying, “I don’t know who the fuck you guys think you are.” Lt. Milano looked over to the other plainclothes officers and said, “This guy is pissing me off.” § 87(2)(b) asked Lt. Milano for his badge number, and Lt. Milano showed him a gold badge with no number or name on it. § 87(2)(b) asked why there was no name and number on the, and Lt. Milano told him it was because he was a lieutenant and lieutenants badges were different. § 87(2)(b) asked Lt. Milano what his name was, but Lt. Milano did not answer him. Lt. Milano called for backup on his radio and pulled handcuffs out of his pocket.

Lt. Milano asked § 87(2)(b) for his ID, and § 87(2)(b) handed it to him. Lt. Milano took § 87(2)(b)’s ID and placed it in his pocket. Lt. Milano asked § 87(2)(b) what his name was. § 87(2)(b) asked Lt. Milano, “What the fuck did you put my ID in your pocket for?” Lt. Milano told § 87(2)(b) that he was now going to be arrested. Lt. Milano started to approach § 87(2)(b) and § 87(2)(b) said that it was fine if they went to the precinct, but first he needed to get his things together. § 87(2)(b) turned around and started to pack up his things, when another officer, PO2, came up behind § 87(2)(b) grabbed his right arm, and tried to put him in handcuffs. § 87(2)(b) described PO2 as a white male in uniform, 6’1” tall, heavy set, and wearing a white shirt with a gold badge. This investigation later identified PO2 as Lt. Maher from the Central Park Precinct. As Lt. Maher was trying to place § 87(2)(b) in handcuffs, § 87(2)(b) realized he still had his wallet in his left hand, so he turned away from Lt. Maher so he could place his wallet in his back left pocket. Lt. Maher said to § 87(2)(b) “Don’t resist!” § 87(2)(b) said that he was not resisting but only putting his wallet in his pocket. Lt. Maher placed § 87(2)(b) in handcuffs, and escorted him out of the Rambles section. After exiting the Rambles section, Lt. Maher handed § 87(2)(b) over to three officers, PO3, PO4, and PO5; and these officers brought § 87(2)(b) to the Central Park precinct where he was booked. § 87(2)(b) identified PO3 and PO4 as PO Tuccio and PO Chung from the Central Park Precinct, by reading their names on their uniforms. § 87(2)(b) did not recall what PO5 looked like, nor did he

remember the officer's name. The investigation ultimately determined that PO5 was most likely PO Woo from the Central Park Precinct.

### **Results of Investigation**

#### **Officer Interviews**

##### **Lt. Milano, Memo Book Entry**

Lt. Milano had the following memobook entries in regards to this incident: "0145 2 stopped Rambles. 0151 1 Under PO Chung." (encl. 7a-b)

##### **Lt. Milano, CCRB Interview**

Lt. Thomas Milano was interviewed at the CCRB on March 13, 2009 at 9:35 AM (encl. 10a-b). Lt. Milano is a § 87(2)(b) old white male, 5'6" tall, 200 lbs, with brown hair and brown eyes. Lt. Milano is currently assigned to the Central Park Precinct. At the date of the incident, Lt. Milano worked a tour of 0830x0230, he was working overtime, and his assignment was "Special Projects Lieutenant." Lt. Milano's overtime tour lasted from 2000 to 0230. Lt. Milano was working alone and was assigned to RMP #908, which was an unmarked, silver Chevrolet Impala.

On October 16, 2008, at approximately 2:00 AM, in the vicinity of the Central Park Rambles Section in Manhattan, Lt. Milano was conducting homeless surveys at the request of the Central Park Precinct Commanding Officer. While he was on patrol, a restaurant employee of the Boathouse walked up and said there were two men sleeping in the gazebo that may need help. Lt. Milano went up to the gazebo and found two men, one of whom was § 87(2)(b) sleeping on benches inside. Lt. Milano told the men that it was passed curfew and that they could not sleep in the park. Lt. Milano asked the men for their IDs. § 87(2)(b) responded saying, "Fuck you. I don't need to show you my ID." The other man did not say anything. Lt. Milano again explained that he was in violation of the curfew, which is posted at all entrances to the park. § 87(2)(b) replied, "Fuck you. There is no curfew. That law is bullshit." Lt. Milano asked § 87(2)(b) for his ID a few more times, but § 87(2)(b) refused and questioned whether or not Lt. Milano was actually a police man. Lt. Milano was wearing his shield on a chain around his neck at the time, and tried to explain to § 87(2)(b) that he was indeed a police officer. § 87(2)(b) did not believe Lt. Milano and refused to show his ID.

At that point, Lt. Milano called for uniformed back-up to assist him. Lt. Milano wanted to give § 87(2)(b) the benefit of the doubt, since it was possible he was not cooperating because he did not believe Lt. Milano was a police officer. A few minutes later, PO Woo, PO Chung, and Lt. Maher arrived. The other officers that arrived asked § 87(2)(b) for his ID, at which point § 87(2)(b) demanded to know Lt. Milano's shield number. Lt. Milano tried to explain that he was a lieutenant and did not have a shield number, and even held up his shield and shined a flashlight on it to show that he did not have a shield number. § 87(2)(b) replied, "Fuck you. All cops have shield numbers." After, § 87(2)(b) gave his ID, which was some kind of benefit card, to one of the officers. The other homeless man, who had been very calm and cooperative up to that point, also handed his ID to one of the officers. Lt. Milano did not recall which officer it was, but one of the officers that responded radioed in both men's information to check for warrants. The other homeless man did not have any warrants, and one of the officers issued him a criminal court summons and allowed him to leave. § 87(2)(b) however, did have a warrant. The officers explained to § 87(2)(b) that he had a warrant and would be arrested.

Lt. Milano, Lt. Maher, PO Woo, and PO Chung used the minimum amount of physical force required to handcuff and arrest § 87(2)(b). The officers grabbed his arms in an effort to handcuff him, but § 87(2)(b) was not cooperating. § 87(2)(b) was not fighting back, but he was flailing his arms a bit and simply refusing to place his hands behind his back. The officers struggled with § 87(2)(b) for about one minute before getting the handcuffs on him. After being placed in handcuffs, § 87(2)(b) continued to be "nasty and belligerent" towards Lt. Milano and the other officers, and cursed at them numerous times. Lt. Maher,

PO Woo, and PO Chung escorted § 87(2)(b) to the precinct and Lt. Milano resumed patrol. Lt. Milano denied using profanity towards § 87(2)(b) at any point during the incident. No other officer used profanity towards § 87(2)(b) during the incident. Lt. Milano said that § 87(2)(b) used profanity towards him continuously throughout the incident.

#### **Lt. Maher, Memo Book Entry**

Lt. Maher had no entries in his memo book regarding this incident. (encl. 9a-c)

#### **Lt. Maher, CCRB Interview**

Lt. Joseph Maher was interviewed at the CCRB on March 11, 2009 at 9:43 AM (encl. 10a-b). Lt. Maher is a § 87(2)(b) old white male, 6'2" tall, 350 lbs, with brown hair and blue eyes. On October 16, 2008, Lt. Maher worked a tour 2300x0745. At the time of this incident, Lt. Maher was assigned to the Central Park Precinct, and his duties on the date in question were "Platoon Commander." Lt. Maher was in uniform and assigned to a motor vehicle. At the time of this interview, Lt. Maher was in the process of transferring to Manhattan North Investigations Unit, and as a result was unable to produce his memobook.

On October 16, 2008, at approximately 2:00 AM, in the vicinity of the Central Park "Rambles Section" in Manhattan, Lt. Maher received a non-emergency 10-85, officer in need of assistance, call from Lt. Milano. When he arrived at the scene, Lt. Maher observed Lt. Milano speaking to two homeless men. Both men were sitting on benches inside the gazebo, and one of the men, who Lt. Maher later identified as § 87(2)(b) was being very belligerent. Lt. Maher entered the gazebo and asked § 87(2)(b) to stand up. § 87(2)(b) refused, so Lt. Maher told § 87(2)(b) that he would be arrested. Lt. Maher, along with PO Woo and PO Chung, physically helped § 87(2)(b) to stand up by grabbing his arms. Lt. Maher did not recall which officer first put their hands on § 87(2)(b). § 87(2)(b) was not struggling as the officers attempted to lift him, but he was not cooperating. As the officers were trying to lift § 87(2)(b) and handcuff him, § 87(2)(b) was constantly "goading" the officers, saying they were too "weak."

Lt. Milano was standing to the side of the officers during the incident, but did not take part in handcuffing § 87(2)(b). § 87(2)(b) seemed to have a problem with Lt. Milano because he was not wearing a uniform, so Lt. Milano decided to stand back and not take part in the arrest. It took approximately one minute to handcuff § 87(2)(b). After handcuffing § 87(2)(b), Lt. Maher, PO Woo and PO Chung escorted § 87(2)(b) out of the Rambles Section on foot, because the area can not be accessed by motor vehicle. As they were walking through the park, Lt. Maher noticed that § 87(2)(b) was trying to reach something in his back pocket. Lt. Maher stopped the officers and § 87(2)(b) and searched § 87(2)(b)'s back pockets. Lt. Maher ordered one of the officers there to conduct a search of his back pockets, but he did not recall which officer ultimately conducted search. After the conducting the search, the officers discovered some kind of knife in § 87(2)(b)'s back pocket. Lt. Maher did not recall what kind of knife this was. Lt. Maher did recall hearing § 87(2)(b) ask for his or Lt. Milano's name and shield number. Lt. Maher said that he did provide his name to § 87(2)(b) but could not provide his shield number because as a lieutenant, he did not have one. Lt. Maher recalled that § 87(2)(b) took issue with this. Besides apparently trying to reach for a knife, § 87(2)(b) did not struggle or resist the officers while he was being transported to the precinct.

Lt. Maher wanted to add that according to Parks & Recreation regulations, the curfew in Central Park is 1:00 AM to 6:00 AM. Lt. Maher stated that at the request of the Parks Department, the Central Park Precinct enforces this curfew from 1:00 AM to 5:00 AM.

#### **On-Line Booking Sheet**

PO Chung from the Central Park Precinct was the reporting officer for Arrest ID § 87(2)(b)-P. The OLBS indicated that § 87(2)(b) was arrested on October 16, 2008 at 2:00 AM, § 87(2)(a) 160.50

§ 87(2)(b)  
§ 87(2)(b)

§ 87(2)(b) (encl. 11a-b)

## **Criminal Complaint Report**

Complaint #§ 87(2)(b) listed PO Chung as the reporting officer and Lt. Maher as the supervisor for this arrest. The UF-61 noted that § 87(2)(b) was arrested on October 16, 2008, at 2:00 AM, for resisting arrest and a misdemeanor. The supervisor on scene was listed as Lt. Maher. The UF-61 Narrative read as follows: "§ 87(2)(a) 160.50

§ 87(2)(b)  
§ 87(2)(b)  
§ 87(2)(b)  
§ 87(2)(b)  
§ 87(2)(b)  
§ 87(2)(b)" (encl. 12a-b)

## **PO Chung, Memo Book Entry**

PO Chung had the following memo book entries related to the incident "0155- responded to 1085 Lt. Milano. 0200- arrest made to § 87(2)(b) DOB: § 87(2)(b) at 77 St. and West Dr." (encl. 13a-d)

## **PO Chung, CCRB Interview**

PO SangHoon Chung was interviewed at the CCRB on January 29, 2009 at 9:55 AM (encl. 14a-b). PO Chung is a § 87(2)(b) old Asian male, 5'9", 165 pound, male officer, with black hair and brown eyes in the Central Park Precinct. On October 16, 2008 PO Chung was working a 2315x0750, patrolling sector D/E with PO Woo, in uniform, assigned to RMP 55221.

At 0155 PO Chung responded to the 1085 from Lt. Milano at the Rustic Shelter, located in the Rambles Section of Central Park in Manhattan. To get there he drove part way, parked, and walked up the hill. When he arrived § 87(2)(b) was not in handcuffs, but saying, "What am I getting arrested for? There is no such law," repeatedly to Lt. Maher. As soon as PO Chung got there Lt. Maher informed § 87(2)(b) he was under arrest for violating hours of operation without valid ID in the park. PO Chung was about two feet away from Lt. Maher when he heard him say this, but he did not recall anything else being said between the § 87(2)(b) and Lt. Maher other than the preceding phrases.

Lt. Maher took his cuffs out, but § 87(2)(b) refused to put his hands behind his back, so force was required to cuff him. Lt. Maher was on the right side, PO Woo was on the left side, and PO Chung was behind § 87(2)(b) trying to get his hands together to cuff him. § 87(2)(b) was tensing up and squirming so some force was required to get the hands behind his back. It took about two to three minutes to get § 87(2)(b) cuffed. PO Chung grabbed one of his arms with one hand to get it behind his back. During this time Lt. Maher told him stop resisting and put his hands behind his back multiple times. Meanwhile Lt. Milano observed this process. PO Chung did not recall § 87(2)(b) ever asking for Lt. Milano's shield number.

Lt. Maher, PO Chung, and PO Woo escorted § 87(2)(b) to their RMP. § 87(2)(b) did not resist on his way down to the police car, nor did he say anything. None of the officers said anything to § 87(2)(b) while walking down to the police car. § 87(2)(b) asked for Lt. Maher's shield number, to which Lt. Maher responded that he was a Lieutenant and did not have a shield number. PO Chung did not recall if § 87(2)(b) asked for the Lt. Maher's name. PO Chung did not recall if § 87(2)(b) asked Lt. Milano for his name and shield number. He was put in the RMP and taken to the precinct, and PO Chung did not recall any interactions during this time frame. At the precinct, PO chung recalled that § 87(2)(b) was calm.

## **Police Documents**

### **Roll Call**

The roll call confirmed the identity of the subject officer in this incident. (encl. 17a-h)

## **SPRINT**

SPRINT X01083 indicates that at 1:42 AM, a Lieutenant from the Central Park Precinct called a 10-85, officer in need of assistance. At 1:43 AM, officers from the Central Park Precinct called a 10-84, arrived at scene; and a lieutenant from the Central Park Precinct was notified of the situation. At 1:52 AM, a lieutenant from the central park precinct called a 10-82, verification of arrest. At 1:53 AM, the special ops lieutenant from the Central Park Precinct announced that he had 1 stopped, 1 under. At 2:00 AM, officers from the Central Park Precinct called a 10-82, verification of arrest. At 2:00 AM, a lieutenant from the Central Park Precinct called another 10-85, officer in need of assistance. AT 2:00 AM, officers patrolling Sector D from the Central Park Precinct announced they were transporting the arrestee to the precinct house. At 2:13 AM and 2:22 AM, respectively, both lieutenants from the Central Park Precinct called a 10-98, resuming patrol. At 3:56 AM, officers patrolling Sector D from the Central Park Precinct called a 10-92C, a crime arrest. (encl. 15a-b)

## **Criminal Conviction History of Civilian**

§ 87(2)(b) [§§ 86(1)(3)&(4)] [§ 87(2)(c)]

## **Substantiated CCRB allegations which resulted in the Imposition of Discipline**

In CCRB case #200310204, the allegation of a strip-search was substantiated against Lt. Milano. According to the disposition, Lt. Milano received instructions for this substantiated charge. Besides case #200310204, after 12 years with the NYPD, Lt. Milano has no other substantiated allegations on his CCRB history. (encl. 2)

## **§ 87(2)(b) CCRB History**

§ 87(2)(b) has filed has filed nine prior complaints with the CCRB, seven of which relate to incidents in Central Park. (encl. 4)

## **Conclusions and Recommendations**

### **Officer Identification**

The physical description of the officer provided by § 87(2)(b) matched Lt. Milano's pedigree information. Lt. Milano acknowledged first interacting with § 87(2)(b) § 87(2)(g)

Lt. Maher, Lt. Milano, and PO Chung, in their CCRB interviews, stated that together they used physical force to affect the arrest of § 87(2)(b) § 87(2)(g)

### **Undisputed Facts**

It is undisputed that on October 16, 2008, at approximately 2:00 AM, Lt. Milano approached § 87(2)(b) and another individual whom he found sleeping in Central Park after it was closed to the public. After Lt. Milano decided to arrest § 87(2)(b) he called for back up to assist him.

### **Disputed Facts**

§ 87(2)(g)

## Assessment of Evidence

- § 87(2)(b) 's CCRB history indicates that he has filed numerous complaints regarding officers not allowing him to sleep in Central Park. § 87(2)(g)
- § 87(2)(b) **alleged that Lt. Milano refused to provide him with his name and shield number when asked.**
  - PO Chung did not recall whether or not § 87(2)(b) asked Lt. Milano for his name and shield number.
  - Lt. Maher did not recall whether or not § 87(2)(b) asked Lt. Milano for his name and shield number.
  - Lt. Milano recalled that § 87(2)(b) did ask him for his name and shield number. Lt. Milano said that he provided § 87(2)(b) with his name and explained that lieutenants don't have a shield number. Lt. Milano shined his flashlight on his badge and showed it to § 87(2)(b) and § 87(2)(b) replied, "Fuck you. All cops have shield numbers."
  - § 87(2)(b) did not mention this allegation in his initial complaint narrative, but he did make this allegation in his in-person statement. § 87(2)(g)
  - § 87(2)(g)  
§ 87(2)(b) In particular, both men stated that Lt. Milano explained that lieutenants don't have shield numbers. Furthermore, both men noted that § 87(2)(b) did not accept this answer and continued to argue with Lt. Milano.
  - Lt. Milano described § 87(2)(b)'s demeanor at this time as extremely "belligerent" and § 87(2)(b) himself admitted that he was using profanity. § 87(2)(g)  
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§ 87(2)(g)

## Allegations Not Pleaded

§ 87(2)(g)  
§ 87(2)(g)  
§ 87(2)(g)

### Allegation A: Lt. Thomas Milano refused to provide his name and shield number to § 87(2)(b)

§ 87(2)(g)  
§ 87(2)(g)  
§ 87(2)(g)  
§ 87(2)(g)

### Allegation B: Officers used physical force against § 87(2)(b)

According to Patrol Guide 203-11 concerning the Use of Force (encl 1a-i), "Only that amount of force necessary to overcome resistance will be used to effect an arrest or take a mentally ill or emotionally disturbed person into custody." § 87(2)(g)  
§ 87(2)(g)  
§ 87(2)(g)

Investigator:

Date:

Supervisor:

Date:

Reviewed by:

Date:

Reviewed by:

Date: